



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

RIN 0648-BL48

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast

Groundfish Fishery Management Plan; Amendment 30; 2023-2024 Biennial

Specifications and Management Measures; Notice of Availability

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Availability of proposed fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council has submitted Amendment 30 to the Pacific Coast Groundfish Fishery Management Plan to the Secretary of Commerce for review. If approved, Amendment 30 would specify a shortbelly rockfish catch threshold to initiate Council review; extend the length of the limited entry fixed gear sablefish primary season; change the use of Rockfish Conservation Area boundaries; expand the use of Block Area Closures to control catch of groundfish; and correct the definition of Block Area Closures. Amendment 30 is necessary to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure management measures are based on the best scientific information available. It is intended to promote the goals and objectives of the Pacific Coast Groundfish Fishery Management Plan.

DATES: Comments on Amendment 30 must be received no later than *[insert date 60 calendar days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2022-0080, by the following method:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA-NMFS-2022-0080 in the Search box. Click the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments must be submitted by the above method to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and NMFS will post for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic Access

This rule is accessible via the Internet at the Office of the Federal Register Web site at *https://www.federalregister.gov/*. Background information and documents including an analysis for this action (Analysis), which addresses the statutory requirements of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) are available from the Pacific Fishery Management Council’s Web site at *http://www.pcouncil.org*. The draft Environmental Assessment (EA) which addresses the National Environmental Policy Act, Presidential Executive Order 12866, and the Regulatory Flexibility Act, is accessible via the Internet at the NMFS West Coast Region Web site at *https://www.fisheries.noaa.gov/region/west-coast*. The final 2022 Stock Assessment and Fishery Evaluation (SAFE) report for Pacific Coast groundfish, as

well as the SAFE reports for previous years, are available from the Pacific Fishery Management Council's (Council's) website at <http://www.pcouncil.org>.

FOR FURTHER INFORMATION CONTACT: Brian Hooper, Fishery Management Specialist, at 206-526-6117 or brian.hooper@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) seaward of Washington, Oregon, and California under the Pacific Coast Groundfish fishery management plan (PCGFMP). The Council prepared and NMFS implemented the PCGFMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* and by regulations at 50 CFR parts 600 and 660. The Magnuson-Stevens Act requires that each regional fishery management council submit any fishery management plan (FMP) or plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, immediately publish a notice that the FMP or amendment is available for public review and comment. This notice announces that the proposed Amendment 30 to the FMP is available for public review and comment. NMFS will consider the public comments received during the comment period described above in determining whether to approve, partially approve, or disapprove Amendment 30 to the FMP.

Amendment 30 would make five changes to the PCGFMP. Amendment 30 would (1) specify a shortbelly rockfish catch threshold to initiate Council review; (2) extend the length of the limited entry fixed gear (LEFG) sablefish primary season; (3) change the use of Rockfish Conservation Area (RCA) boundaries; (4) expand the use of Block Area Closures (BACs) to control catch of groundfish; and (5) correct the definition BACs.

Shortbelly Rockfish Catch Threshold to Initiate Council Review

Shortbelly rockfish is one of the most abundant rockfish species in the California Current Ecosystem and is a key forage species for many fish, birds, and marine mammals. The Council recommended and NMFS approved the designation of shortbelly rockfish as an ecosystem component (EC) species through Amendment 29 to the PCGFMP, as part of the 2021-2022 groundfish management measure process (85 FR 79880, December 11, 2020). The Notice of Availability for Amendment 29 (85 FR 54529, September 2, 2020) provides additional background on shortbelly rockfish. The Council monitors and tracks shortbelly rockfish mortality inseason. Shortbelly rockfish are not, and have not historically been, a directed target of commercial or recreational fisheries. Due to their small size, shortbelly rockfish are not currently marketable. However, concerns over the potential future development of a directed fishery prompted the Council to note during the 2021-2022 groundfish management measure process that it would consider taking action if mortality of shortbelly rockfish in the fishery exceeds, or is projected to exceed, 2,000 metric tons (mt) in a calendar year. This guidance was not formalized in the PCGFMP as part of Amendment 29. Therefore, Amendment 30 would amend the PCGFMP to add language stating that if shortbelly rockfish mortalities exceed, or are projected to exceed 2,000 mt in a calendar year, the Council would review relevant fishery information and consider if management changes were warranted, including, but not limited to reconsideration of its current classification as an EC species. Relevant information could include but would not be limited to, survey abundance trends and other stock status information, changes in fishing behavior, and changes in the market interest for shortbelly rockfish. In response to the review of the information, the Council would consider voluntary measures taken by the fishing industry to reduce bycatch, and consider other management measures including, but not limited to, area closures, gear prohibitions, bycatch limits and seasonal restrictions as deemed necessary to reduce shortbelly rockfish mortality.

NMFS notes that routine management measures as laid out in 50 CFR 660.60(c) are not currently available for shortbelly rockfish management because shortbelly rockfish is an EC species. Shortbelly rockfish would need to be redesignated as "in the fishery" prior to routine management measures being available for inseason use. However, the Council could recommend, consistent with the points of concern framework (PCGFMP Section 6.2.2), management measures to minimize bycatch or bycatch mortality of EC species as laid out in 50 CFR 600.305(c)(5). Depending on the issue triggering the need for management measures, this pathway might require revisiting the EC designation.

LEFG Sablefish Primary Season Extension

Amendment 30 would permanently extend the LEFG primary sablefish tier fishery (hereinafter referred to as primary fishery) season end date from October 31 to December 31. The primary fishery would close on December 31, or close for an individual vessel owner when the tier limit for the sablefish endorsed permit(s) registered to the vessel has been reached, whichever is earlier.

The primary sablefish fishery tier program is a limited access privilege program set up under Amendment 14 to PCGFMP (66 FR 41152, August 7, 2001). Participants hold limited entry permits with a pot gear and/or longline gear endorsement and a sablefish endorsement.

Under Amendment 14, as set out in 50 CFR 660.231, the permit holder of a sablefish-endorsed permit receives a tier limit, which is an annual share of the sablefish catch allocation to this sector. NMFS sets three different tier limits through the biennial harvest specifications and management measures process; and up to three permits may be stacked at one time on a vessel participating in the fishery. Stacked tier limits are combined to provide a cumulative catch limit for that vessel. After vessels have caught their full tier limits, they are allowed to move into other fisheries for sablefish,

specifically the limited entry or open access trip limit fishery, or fisheries for other species.

Under Amendment 14, the sablefish primary season has historically been open from April 1 through October 31 of each year, though individual permit holders may only fish up to their tier limits so may be required to cease fishing prior to October 31. These season dates were put into regulation during the development and implementation of the fishery under Amendment 14. Prior to the implementation of Amendment 14, the sablefish fishery had operated as a ‘derby’ style fishery, with a season length lasting a few weeks to a few days. Under Amendment 14, the fishery began operating under a seven-month season. The seven-month season structure, as opposed to a year-long season, was intended to allow for timely catch accounting so that the sector allocation was not exceeded. As of 2017, commercial vessels landing sablefish are required to submit e-tickets within 24 hours of offload, “to improve timeliness and accuracy of sablefish catch reporting in the limited entry fixed gear fisheries and open access fisheries” (§ 660.213). Given the increase in speed of modern catch accounting, the original reason for the seven-month season is no longer applicable.

In response to industry requests and Council recommendation, NMFS issued emergency rules in 2020 and 2021 (85 FR 68001, October 27, 2020; 86 FR 59873, October 29, 2021) to temporarily extend the sablefish primary fishery from October 31 to December 31. These emergency actions were intended to mitigate COVID-19 pandemic related disruptions in the fishery by allowing participants more time to harvest their full tier limits.

The Analysis discusses that the primary fishery has experienced lower than average attainment since 2019 amidst higher than average sablefish allocations. Even with the season extension in 2020 and 2021, attainment was only 80 and 74 percent of the

sector allocation, respectively. A season extension could provide opportunity and flexibility for vessels to fish their full tier limits and maximize economic benefits.

Novel Utilization of Existing Rockfish Conservation Area Boundary Lines

The Council recommended a novel utilization of the previously established RCA boundary lines for the California recreational fishery (§ 660.360(c)(3)). Recreational RCA boundary lines are a set of connecting waypoints which approximate a depth contour (§ 660.71 through § 660.73). These lines have historically been used to allow fishing shoreward of a specific RCA boundary line and prohibit fishing seaward of that line. Amendment 30 would modify the PCGFMP to also allow fishing seaward of a specified RCA boundary line and prohibit fishing shoreward of that line. For example, fishing could be prohibited in Federal waters shoreward of the 30, 40, 50, 60, 75, 100, or 125, fathom line. Amendment 30 would modify the PCGFMP to allow RCAs to be used to control catch of groundfish species. This would provide logistical flexibility for the management of overfished species like yelloweye rockfish (current RCA utilization) and non-overfished species that include species of concern such as quillback rockfish, copper rockfish, or cowcod (novel RCA utilization). This new management measure, if approved, may be used during the regular season setting process through the biennial specifications and management measures or as an inseason action to achieve harvest specifications.

This proposed measure is intended to be a tool to reduce mortality for nearshore rockfish species of concern (such as quillback rockfish, copper rockfish, or cowcod) or rebuilding yelloweye rockfish by shifting fishing effort away from the habitats and depths where those stocks are most commonly encountered, and onto shelf and slope waters to target other, healthier groundfish stocks. This measure would provide more flexibility in managing groundfish fisheries in California and is designed to be combined with other season structure options and bag limit options to create a suite of management measures

which take steps to achieve harvest specifications and minimize negative impacts to California fisheries and coastal communities. The effectiveness of this proposed management tool would be limited based on the prevalence of each species in state waters as compared to in the EEZ. The majority of fishery effort for copper and quillback rockfish off California is in state waters, therefore, the overall effectiveness of this management measure may be constrained.

The Analysis discusses uncertainty with model projections when RCA boundary lines are utilized in this novel way, especially for species with a deeper depth distribution, like cowcod and yelloweye rockfish. The California Department of Fish and Wildlife's weekly and monthly tracking processes have been an effective and reliable tool to closely monitor recreational inseason mortality and provide timely and accurate information to apply inseason adjustments, such as changes to depth limits, season length, or bag limits, to fisheries.

This proposed measure is intended to limit the negative socioeconomic impacts that could otherwise occur as a result of the need to reduce mortality for quillback and copper rockfishes, and stay within harvest guidelines for yelloweye rockfish and cowcod. The Analysis discusses the impact of this measure on the recreational boat-based groundfish fisheries in California.

Block Area Closures for Groundfish Mitigation

Amendment 30 would modify the PCGFMP to make BACs available as a routine management measure to control catch of groundfish by midwater trawl and bottom trawl vessels. BACs could be implemented in the EEZ off Washington, Oregon, and California. BACs could be implemented within tribal Usual and Accustomed (U&A) fishing areas but would only apply to non-tribal vessels. This proposed rule would prohibit midwater trawl and/or bottom trawl fishing within the BAC boundaries.

BACs are size variable spatial closures bounded by latitude lines, defined at 50 CFR 660.11, and depth contour approximations defined at 50 CFR 660.71 through 660.74 (10 fm (18 m) through 250 fm (457 m)), and § 660.76 (700 fm (1280 m)). Amendment 28 to the PCGFMP (84 FR 63966, November 19, 2019) first established BACs as a management tool. The salmon bycatch minimization measures action (86 FR 10857, February 23, 2021) established BACs as a tool to minimize salmon bycatch. This proposed measure would align the outermost available depth boundaries (*i.e.*, 700 fathoms) across all midwater and bottom trawl BACs used to control groundfish catch.

The BAC tool would allow the Council to recommend and NMFS to implement size variable area closures as a routine management measure to address specific areas of high catch or bycatch of one or more specific groundfish species rather than large fixed closure areas (*e.g.*, Bycatch Reduction Area or BRA). BACs would allow for the trawl fishery to remain open in areas outside of the BACs.

This measure is needed because fishery managers do not currently have appropriate scaled spatial tools to mitigate trawl-based groundfish catches, while also minimizing economic impacts to the fishing industry. BACs could be an important tool to manage a species like Pacific spiny dogfish, which exhibit spatial and seasonal aggregations, that may be limiting based on recent stock assessment outlook.

During development of this measure the Council noted BACs should be considered a last-resort measure behind industry implemented avoidance measures. The Council also noted BAC were not intended to be used for habitat protection because of their flexible nature.

Correction to the Definition of Block Area Closures

Amendment 30 would modify the PCGFMP to correct a mismatch between the PCGFMP and current regulations regarding the definition of BACs. The salmon bycatch minimization measures action (86 FR 10857, February 23, 2021) established BACs as a

tool to minimize salmon bycatch. BACs are described in multiple regulation sections (e.g., 50 CFR 660.11 Conservation area(s); § 660.111 Block area closures; § 660.60(c)(3)(i)). The regulations articulate the Council's intent to manage incidental salmon bycatch by vessels using groundfish midwater trawl gear in the EEZ off of Washington, Oregon, and California with Block Area Closures (BACs). However, inadvertently, the FMP was not updated to be consistent with regulations. To avoid potential future implementation delays, updates would be made to the PCGFMP that are consistent with Council intent described in the salmon bycatch mitigation rulemaking document (86 FR 10857, February 23, 2021). The PCGFMP would be revised to include language that BACs are available in the EEZ seaward of Washington, Oregon and California state waters for vessels using limited entry bottom trawl gear and in the EEZ seaward of Washington, Oregon and California state waters for vessels using midwater trawl gear.

NMFS welcomes comments on the proposed FMP amendment through the end of the comment period stated in this notice of availability. A proposed rule to implement Amendment 30 and the 2023-2024 groundfish biennial harvest specifications and management measures has been submitted for Secretarial review and approval. NMFS expects to publish and request public review and comment on proposed regulations to implement Amendment 30 in the near future. For public comments on the proposed rule to be considered in the approval or disapproval decision on Amendment 30, those comments must be received by the end of the comment period on the amendment. All comments received by the end of the comment period for the amendment, whether specifically directed to the amendment or the proposed rule, will be considered in the approval/disapproval decision. Comments received after that date will not be considered in the approval/disapproval decision of the FMP amendment. To be considered,

comments must be received by close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 31, 2022.

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